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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,935	08/10/2000	Devon A. Rolf	200.10101	6337
57855	7590	02/01/2006	EXAMINER	
GOFigure, L.L.C.			LANEAU, RONALD	
26950 OLD KANSAS CITY ROAD			ART UNIT	
PAOLA, KS 66071			PAPER NUMBER	

3627

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

09/635,935

**Applicant(s)**

ROLF, DEVON A.

**Examiner**

Ronald Laneau

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4-9, 12-32, and 35-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9, 12-32 and 35-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

1. The amendment filed on 11/21/05 has been entered. Claims 62-65 are now added and claims 1, 2, 4-9, 12-32, and 35-65 are now pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4-9, 12-32, and 35-65 rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al (US 6,144,848).

As per claims 1, 2, 60 and 61, Walsh discloses a device including a processor (fig. 1, 122), a memory (fig. 1, 128), and a transmitter (fig. 1, 123) all housed in a portable housing 120 and collectively operable to perform data communications functions (col. 7, lines 3-7), wherein said memory has data indicative of monetary units stored therein, and wherein, during a purchase transaction at a point of sale terminal (col. 1, lines 66 to col. 2, lines 1-12), data indicative of a selected amount of monetary units associated with said purchase transaction is wirelessly sent from said device to said point of sale terminal (col. 15, lines 33-44). Walsh does not disclose the purchase transaction is performed without use of an electromagnetic detector or a bar code reader in said device but it well known in the art to have this type of transaction without use of an electromagnetic detector or a bar code reader as evidenced in the disclosure of Barrus et al

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(US 5,465,291) wherein a user has the option to use or not to use the barcode wand in the device (see fig. 2B).

It would have been obvious to one of ordinary skill in the art to utilize the system of Walsh without the use of a barcode because it would provide a new and improved system for remote item ordering by providing communication (without the need for human vendor interaction) with a vendor database via recognizable inputs and responses.

As per claims 4-8, 12-14, 27-32 and 35-37, Walsh discloses a portable device cellular (see figs. 4, 5) but does not explicitly disclose any other wireless telecommunications devices such as portable computer, laptop or notebook computer, pda, pager and wherein transmission of data can be wirelessly done via radio frequency, short range wireless link (bluetooth), local area network, cellular link, etc as claimed (see abstract). These types of wireless communication device are old and well known in the business art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any other types of communication devices as claimed because it would provide a system for telecommerce that would offer secure, optionally-encrypted communications and with storage of sensitive confidential data in a secure location.

As per claim 9, Walsh discloses a device wherein said data indicative of a selected amount of monetary units is transmitted wirelessly to said point of sale terminal via a radio frequency (col. 14, lines 19-23).

As per claims 15 and 38, Walsh discloses a keypad input used for dialing telephone numbers and for entering a personal identification number (PIN) or ID codes wherein said PIN must be entered into said device to complete said transaction (col. 15, lines 33-40).

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As per claims 16-26 and 39-49, Walsh does not explicitly disclose a specific point-of-sale but it is old and well known in the business art that a point of sale can be any of the followings: a television, a vending machine, a fast-food drive trough terminal, a gas pump, a check-out station at a retail store, a restaurant, an online store and wherein said transaction is completed while said device is communicating via a voice link with said point of sale terminal as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any of the locations as a point-of-sale for the device of Walsh because it would real-time telecommunications that allow the device to behave like a sophisticated “super computer”.

As per claims 50-59, Walsh discloses a smart cart engine chip but teach a processor that is capable of selecting the amount of monetary units from the memory for transmission to the point of sale as claimed and further a display screen that is also capable of displaying information on the order and displaying an electronic receipt as claimed (col. 15, lines 33-41).

As per claims 62-65, Walsh discloses a device that is capable of being operated in physical proximity of the point-of-sale as claimed.

#### ***Response to Arguments***

4. Applicant's arguments filed 11/21/05 have been fully considered but they are not persuasive.

Applicant argues that Walsh does not disclose or suggest a device or the ability to perform a purchase transaction “at a point-of-sale terminal without use of a detector or bar code reader in said device.” In response to Applicant’s arguments, Barrus is only used as evidence of a device

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without a bar code reader as claimed. Applicant further argues that Walsh does not teach or suggest “transmitting data indicative of a selected amount of monetary units or data indicative of an account.” In response to Applicant’s arguments, most of the portable devices including Walsh’s device that make remote purchases can transmit data indicative of monetary units as claimed. Furthermore, Applicant argues that the user of the device “must be identified by input of the user’s voice into said device before said purchase transaction.” Contrary to Applicant’s arguments, a voice input is also recognized by the device of Walsh. As a result, claims 1, 2, 4-9, 12-32, and 35-65 remain rejected.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

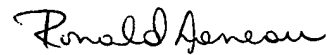
- Adam et al (US 2002/0181710 A1) disclose a mobile transaction system and method for conducting financial transactions.
- Ludtke et al (US 2002/0128980 A1) disclose a system and method for conducting secure transactions over a network.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ronald Laneau  
Examiner  
Art Unit 3627

1/24/06

rl